IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 22914 of 2006(C)

AGAINST THE ORDER IN EP 90 / 2004 IN OS.46/2003 of SUB COURT, OTTAPPALAM

.....

PETITIONER:

DIWAKARAN.K.,
S/O.LATE SHRI MADHAVAN NAIR,
KURUPPATH HOUSE, MANISSERY POST,
OTTAPALAM TALUK.

BY ADV. SRI.E.R.VENKATESWARAN
SRI.R.SREEHARI

RESPONDENT:

STATE BANK OF INDIA,
VANIYAMKULAM BRANCH, REP. BY ITS BRANCH MANAGER.

BY ADV. SRI.K.K.CHANDRAN PILLAI, SC, SBI
SRI.R.V.SATHYAPRIYAN NAIR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.22914/2006 C

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF E.P.NO.90/04 IN O.S.NO.46/2003 OF THE SUB COURT, OTTAPALAM.**

EXT.P2: **COPY OF OBJECTION FILED BY THE PETITIONER IN EP 90/04 IN O.S.NO.46/2003 OF THE SUB COURT, OTTAPALAM.**

EXT.P3: **COPY OF APPROVED SALE PROCLAMATION IN EP.NO.90/04 IN O.S.NO.46/03 OF SUB COURT, OTTAPALAM.**

/TRUE COPY/

P.A.TO JUDGE

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 22914 of 2006

Dated this the 26th day of July , 2007

JUDGMENT

It is fairly conceded by the learned counsel for the petitioner that the petitioner did not comply with the condition imposed by this court on 25.8.2006 for granting stay. The learned counsel submits that the petitioner did not have required cash with him or else he would have complied with the condition. Ground, which is seriously raised by the petitioner, is that the market value of the property which is now ordered to be sold is much more than the value shown in the sale proclamation schedule. According to the petitioner, a portion of the property will suffice for realising the entire decree debt.

2. Noticing the above ground, I dispose of this writ petition directing the learned subordinate judge to hold up the further proceedings in execution of the decree for a period of six months. It is open to the petitioner to identify a purchaser who will purchase any portion of his property now ordered to be

sold for an amount sufficient to discharge the decree debt in the meanwhile. Once such a purchaser is identified, a copy of the agreement will be produced by the petitioner before the Execution Court, which should be moved for permission to have the sale in favour of the prospective purchaser. The court below will consider that application and pass appropriate orders ensuring that the decree debt is deposited either by the petitioner or by the prospective purchaser. The order of stay presently passed will not continue for more than six months from today.

PIUS C. KURIAKOSE,
JUDGE.

dpk